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Crim. Con. Aug 29

THE WHOLE
P R O C E E D I N G S
ON THE
T R I A L,

BETWEEN
Mr. GEORGE HAYES, a Lieutenant in the
Navy, and Mr. JOSEPH CARTER,
Laceman, in Lombard-Street,
FOR
Criminal Conversation with his Wife:

WHICH WAS TRIED, AT THE
COURT OF COMMON PLEAS, WESTMINSTER,
ON TUESDAY, Dec. 4, 1798,

BEFORE
Mr. JUSTICE HEATH, and a Special Jury.

○
*Taken, in Short-Hand, by E. HODGSON, Short-Hand-Writer to
the Old Bailey for Eleven Years.*

L O N D O N :
Published by J. FAIRBURN, No. 146, Minories.

[Price One Shilling.]

1821

7/24/40

TRIAL, &c.

Counsel for the Plaintiff,

MR. LAW, MR. PITCAIRN, and MR. SERGEANT
RUNNINGTON.

Counsel for the Defendant,

MR. SERGEANT COCKELL, MR. SERGEANT SHEP-
HERD, and MR. MANLEY.

*The Pleadings were opened by Mr. PITCAIRN, and
the Case by Mr. LAW, as follows :*

MAY it please your Lordship, — Gentlemen
of the Jury, I have the honour of appearing
before you as Counsel for Mr. GEORGE HAYES,
a young man every way respectable, in situation,
connection, and rank, in the Navy, in which he
has uniformly earned the approbation of all those
who have been witnesses to the merit of his ser-
vices. He comes before you seeking an adequate
A 2 reparation

reparation (if any adequate pecuniary reparation can be made) for the injury he has sustained by the atrocious conduct of the Defendant. He comes complaining, that, at a period of time when he was in the service of his country, and, by the fate of war, groaning under the horrors and gloom of a Spanish prison, this person destroyed the virtue and corrupted the honour of his wife, defiled his bed, and completely violated all his resources of happiness.

Gentlemen, these are the circumstances of the case as to the general outline ; I am to state to you more particularly the situation of the parties.

Mr. HAYES, a young gentleman in his majesty's service of the age of 28, sometime in January, 1795, being occasionally resident at Deptford, became acquainted with Miss Christian Jones, the daughter of Mr. Morrice Jones, a very respectable lighterman, who is in a large way of business ; and he soon after obtained her in marriage ; after which, he was occasionally absent on service. He had the command of the Experiment lugger, which was employed in channel-service ; but at every possible interval he returned to avail himself of the comforts of domestic life, and came with the eagerness and impatience of a lover to his wife. He had taken a house for her in the neighbourhood of her father, and furnished it in the best manner his finances would afford ; for, besides his pay, he had £1000 of his own fortune ; and he bestowed

bestowed upon her every necessary comfort, consistent with his situation.

Gentlemen, in March, 1796, there was, issue of this marriage, a child born; and they continued to live together at intervals, till he was sent with dispatches from government to Lord St. Vincent. In the course of that service, he, and the vessel he commanded, were taken, in October, 1796, by a Spanish vessel, and he was conveyed to a Spanish prison; where he lay till the month of March following, when he was liberated; and, sometime in April, 1797, he anxiously returned to the wife of his bosom, whom he had left residing under the wing and protection of her father, and in an honourable connection in which he had placed her, in the enjoyment of the habits of friendship with three very amiable women his sisters.

But, Gentlemen, consider for a moment, what must have been the miserable state of mind of this gentleman, to find his wife had absconded; but with whom, and on what account, or to what place she had gone, he knew not. But it soon afterwards appeared, that this lady had formed a criminal intercourse with the Defendant; whom I will now state to you to be a very opulent dealer in gold and silver lace in Lombard-street; whose father resided also at Deptford, who had been many years in a very profitable business, and retired with a considerable fortune. Mr. Joseph Carter came frequently
to

to his father's house, by which he had an opportunity of seeing this lady, whose father and family visited at Mr. Carter's; and he introduced himself to Mr. Jones's house as a suitor to another of the sisters. Gentlemen, a criminal connection soon took place between them; and it appears, by the time when she was delivered of a child by the Defendant, which was the 26th of July, 1797, that, at the very time when this deserving, though unfortunate, young man was suffering in a Spanish prison, this connection began.

Gentlemen, it will appear to you in evidence that, on the 13th of April, 1797, when she was between five and six months gone with child, and knowing that her husband had been liberated from this Spanish prison, and was on his return home, a lodging was taken for her, by a woman of the name of Saxton, in Contentment-place, Hoxton, which, being a very retired spot, was likely to favour her design of lying-in secretly. You observe, Gentlemen, and I cannot help repeating, that, according to the ordinary rules of gestation, this criminal connection began at the very period when the Plaintiff was enduring the horrors of a Spanish prison, and was, of course, continued during all the time of his miserable residence there.

Gentlemen,

Gentlemen, a one-pair-of-stairs room was hired, for this lady, by this Mrs. Saxton, (a person who worked for Mr. Carter in his business,) and, in the evening, she came to sleep there. She had, till this time, resided at Deptford, and, that day, she told her maid she was going to put a letter into the post, and she never returned. This, of course, occasioned great alarm and anxiety.

Gentlemen, not the least trace was discovered of her from this period to the 20th of August, when, having been delivered of a child, she thought fit to make her appearance at her father's house again.

Now, Gentlemen, who is the author of all this misery which we are at this moment deploring? Who took this lodging for her? who harboured her in this secrecy? Mr. Joseph Carter presents himself to your view as the author of the whole. This lodging was taken in the name of Cecil, and they lived there as husband and wife; and he informed the people of the house that this had been a stolen marriage, and that a temporary concealment was necessary. He visited her frequently, and they cohabited, as married people do, till this time in August, when she again visited her father's house. It happened that a woman, who will be called to you, who lived in the house, knew the person of Mr. Carter,

ter, and accosted him by his name, which he owned, but desired her not to mention it, and again pleaded the necessity of secrecy and retirement, assigning the same cause he had before given to the mistress of the house.

Gentlemen, on the 31st of July, three or four days after she was brought to bed, the child was sent away to nurse. Gentlemen, on the return of her husband the first time, which was three or four days after the elopement which I have mentioned, he came, expecting to meet the object of his regards, with all that gaiety of spirits which a man would naturally feel after so long a confinement; and he came to the house of Mrs. Abbott, in Gracechurch-street, a common friend of the parties, where the lady's father happened to be. They both received him with sorrowful countenances, informing him of this strange elopement, and their fears concerning his wife. Gentlemen, the dismay and horror of the Plaintiff can be more easily conceived than described: he was heart-broken. He went down to Deptford with the father; and, as it had been industriously circulated that she had gone away in great derangement of mind, they made an universal search for her, and had every pond and place of water thereabouts dragged, in order, if possible, to know what had been her fate; and an advertisement had been put into the

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the paper, drawn up by this very Mr. Carter, who had been the cause of all this distress, and who also had the coolness and effrontery to attend her father to Mr. Justice Addington's, in order to obtain some knowledge of this pretended eloper, whom he had, at the same time, artfully concealed. The advertisement was to this effect :

“ MISSING FROM HOME, a Lady, supposed to
 “ be deranged in her mind. Had on, a black
 “ velvet bonnet and black feather, red and white
 “ striped gingham gown, white muff and tip-
 “ pet. Rather short, and of a fair complexion.
 “ Apply to Mr. Kirkham, Prince of Orange,
 “ Greenwich-road.”

No discovery arose from this, as you may easily conceive.

Gentlemen, this family, where she resided, suspecting this was not a real marriage, and the child being so shortly taken away, they watched this lady, who went away, in a coach, to Mrs. Abbott's, in Gracechurch-street ; and it will appear to you, from the evidence of this Mrs. Abbott, that she endeavoured to impose a story on her which she afterwards attempted on her father, which was, that, in the evening in which she had disappeared, a gentleman had taken her

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up in Greenwich-road, had carried her to splendid apartments at the west end of the town, had there locked her up for four months together, had offered her every luxury of dress; that she resisted all these temptations, and, lest any infusion should be communicated in liquor, she absolutely forbore the use of all liquor for three days; but that she had resisted to the last; that she had not been dishonoured after this four months close siege, where every thing that could allure, tempt, or seduce, was offered to her.

Gentlemen, on his second return, she told this story to her husband. It was too strong even for the credulity of the honest sailor: it had passed on the father, but would not pass on the husband. He naturally interrogated her: But did you know the gentleman? Were there many people by? Who did you see at this house? And how did you get away? And, above all, did you resist to the last? — The lady found these questions too close and embarrassing; therefore she said, I have told all to my father, and I will tell no more; upon which the husband replied, Until this matter is cleared up to my satisfaction, it is impossible that any honourable person can partake of the same bed with you, as a husband.

Gentlemen, I mentioned his second return; for, he was obliged to go back to abide a trial by

a court-martial, as is always usual when any officer has had his vessel captured by the enemy. He was tried as soon as he possibly could; and, as you must suppose, honourably acquitted. I should have observed, that, most of his witnesses being on-board the fleet commanded by Lord St. Vincent, it was more convenient to have this court-martial held in the Mediterranean than in England; therefore he was obliged to repair thither, as he could not be restored to his command till such trial had taken place. Gentlemen, after his acquittal, he was, of course, restored to his majesty's service, where he has been ever since.

Gentlemen, it was not till June, 1798, that he knew the author of his dishonour. A woman of the name of Whitelock, who, as I said, knew Mr. Carter, inquiring more minutely into this affair, found out the residence of this lady's father, at Deptford: she went there, and saw her very comfortably working at the window; she immediately recognized her person, and, happening to meet with her sister, she heard the whole story: this story she thought it her duty to communicate the particulars of to the Plaintiff, which she did by letter: but that letter being addressed to him as Lieutenant of the Experiment frigate, instead of lugger, and there being also an Experiment frigate, it did not reach him; and it was not till his return to England, in

June last, that he received the melancholy news of this foul dishonour ; but, as soon as he did receive the information, he applied to the laws of his country.

Gentlemen, I have thought it necessary to detail these circumstances, to obviate any impression my learned friend may attempt to make on your minds, as to the length of time which has elapsed ; and as though this action was not brought immediately after the Plaintiff's knowledge of this calamity, which was far from being the fact, as he never hesitated about it.

Gentlemen, the case then is this : an honourable young man, drawn from home by the demands of public service, commits to the care and protection of those who were her natural guardians, her father and family, the honour of his wife ; that honour, which he so reposed, has been violated by a person who had access to that family as a friend, and who, by a train of seduction, caused her to elope with him, and has carried on an adulterous intercourse which must for ever and for ever close all expectations to the Plaintiff of any domestic happiness ; and who, also, has been the cause of introducing into his house a child as yet illegitimate.

Gentlemen, are we not to protect those gentlemen who fight our battles ? You have it not in your power to enforce the discharge of moral obligations in the first instance ; for, you operate only

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as avengers of these wrongs, and you can tell the honest sailor, when he is fighting the cause of his country abroad, We will protect your honour at home; we are the guardians of your wife and children; no depredation on your hard-earned property, no violation of your bed, shall take place if we can possibly protect them; but, if we cannot, we will, at least, revenge every such devastation by the reparation which we will make you, in the discharge of that duty we owe to you and to the public at large.

Gentlemen, I know that persons of minds like yours will discharge that duty; for, nothing can induce a man to suffer the miseries and hardships of war and imprisonment so much as the consolation that he is, at that very time, next to Providence, under the wisdom and conduct of a jury of his country, in every thing which concerns his honour, property, and happiness. Gentlemen, as those guardians, I appeal to you, at this time, on the part of my client; and, when I have laid before you the proper proofs, I trust I shall not have appealed in vain.

*The Reverend Mr. NEALE, Curate of St. Gabriel
Fenchurch, sworn.*

Produced the register-book of marriages, and proved the marriage at that parish-church.

Mrs

Mrs. ABBOTT sworn.

Examined by Mr. PITCAIRN.

I keep the Half-Moon-tavern in Gracechurch-street; I remember Mr. Hayes and his wife coming to keep their wedding-day at our house; it was Twelfth-day, the 6th of January, 1795.

Cross-examined by Mr. Sergeant COCKELL.

Q. Pray, madam, had you any knowledge of these parties before?

A. Yes; Mr. Jones, for a long time, has used my house; he was in the India line, belonging to the water, what they call a lighterman, I believe; I know nothing of the family but as friends.

Q. Do you know where the young couple went after this marriage?

A. To Deptford.

Q. How long did Mr. Hayes continue with her?

A. I cannot particularly say.

Q. Do you know Mr. Carter?

A. Only by his coming to my house; he is a young gentleman about the same age of her.

ANN CRESER sworn.

Examined by Mr. LAW.

Q. I believe, madam, you are the sister of Mr. Hayes, married to Mr. Creser?

A. Yes

A. Yes.

Q. You knew of your brother's marriage, I suppose?

A. I did.

Q. Did you visit him and Mrs. Hayes from the time of their marriage?

A. I did.

Q. Did they appear to you to live in harmony and happiness together, as man and wife?

A. They did.

Q. Did you visit Mrs. Hayes at the time her husband was absent on service?

A. I did; they appeared to live in a state of mutual happiness; my brother was afterwards made a prisoner, about October, 1796; he came back in April, 1797; I saw him on that occasion; he appeared to me to be in great distress and agony of mind. Before this misconduct, they appeared to me to live in the utmost happiness.

Mr. Sergeant Shepherd. How often might you have seen them?

A. Why, sir, as often as he came home. I visited her very often, and she visited me.

Q. How many times do you suppose you ever saw them together?

A. I really cannot say how many times.

Q. But about how many, will you be so good as to endeavour to recollect?

A. I

A. I think I must have seen them twenty or thirty times together,

Q. Were they ever so long as two months altogether? I am not imputing any thing to your brother on that account; certainly not.

A. Upon my word, I do not think they hardly ever were.

Q. I mean, taking all the times that they lived together, whether, on the whole, you think they were above two months together?

A. Oh, yes; I think they must.

Q. But how much more do you think?

A. I declare I do not know how to answer these questions; I do not recollect. I think it must have been more than that.

Q. Did you know Miss Jones before the marriage?

A. I have seen Miss Jones repeatedly before the marriage.

Q. Did any body come with her?

A. Sometimes her sister came with her; but generally alone.

Q. Did you know Mr. Carter before the marriage?

A. I do not know him now, sir.

Mr. Law. You believe that your brother was absent on Channel-service?

A. Yes.

Q. Have

Q. Have you reason to believe that he returned as often as he could?

A. No, sir, I believe he came oftener to see her than he should have done, consistent with his situation.

ELIZABETH BROWN *sworn*.

Examined by Mr. Sergeant RUNNINGTON.

Q. Are you sister to Mr. Hayes, the Plaintiff?

A. Yes.

Q. How long has he been in the navy?

A. Fifteen years.

Q. Do you know of the marriage between your brother and Miss Jones?

A. Yes.

Q. Where did they go to live immediately after their marriage?

A. At Deptford.

Q. How far removed from Mr. Jones, her father?

A. About three doors.

Q. Where do you live?

A. I live in Sloan-street, Chelsea. I frequently visited them.

Q. In March, 1796, there was issue?

A. Yes.

Q. During the whole of this time, did Mr. and Mrs. Hayes live together in harmony and comfort?

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A. Very

A. Very much so indeed.

Q. Was Mr. Hayes often absent?

A. Yes, often on his duty.

Q. Now, at the birth of this child, in March, 1796, was Mr. Hayes on his duty at this time?

A. Yes.

Q. When did he return home?

A. I do not know; it was soon after Mrs. Hayes had gone away from her house; I saw him immediately after his return; he was very unhappy, very much so indeed.

Q. When did Mrs. Hayes leave her house at Deptford?

A. I do not know; I was at Portsmouth at the time.

Q. Do you know of any accident that took place?

A. No.

Q. You do not know the reason of his staying, and not coming home?

A. His being a prisoner was the cause of his being absent.

Mr. Manley. You say Mr. and Mrs. Hayes went to their house at Deptford?

A. Yes.

Q. Who was that house furnished by?

A. By her father.

Q. Did your family live at Deptford?

A. Yes,

A. Yes, my mother lived at Deptford; my father has been dead many years; he lived at Chatham; he was master-caulker in Chatham Dock-yard.

Q. How often might you have seen this couple together at this house, or any where?

A. Very often.

Q. How long did he continue at home after the marriage?

A. I think it was between two and three months.

Q. Was not he frequently absent from home during that short period of time?

A. I do not know; I was at Portsmouth after they were married during the whole of these two or three months.

RICHARD CRESER *sworn.*

Examined by Mr. PITCAIRN.

I am married to one of the Plaintiff's sisters; I had opportunities of seeing Mr. and Mrs. Hayes together after they were married.

Q. What was their deportment to one another?

A. In general very affectionate; he was called to leave her within two or three months; he was sent with dispatches, and was taken prisoner; he returned in March or April, 1797.

Q. Do you know when Mrs. Hayes left her father's house?

A. It was in April, 1797.

Q. Was it soon after Mr. Hayes returned?

A. Very soon after his return from his captivity, and before he came to Deptford.

Mr. Sergeant Cockell. I dare say the ladies who have been examined do not mean to mistake, but I rather think they have: you know that, after this marriage, Mr. Hayes was (I will say necessarily, but) very frequently absent?

A. He was.

Q. I believe he was with Mrs. Hayes but a very few days together?

A. I cannot say how long he might have been absent from her at any one time.

Q. But his living with her was occasional, and at broken intervals?

A. Yes, he had a house furnished by Mr. Jones, either adjoining to his, or next but one.

Q. What did Mr. Jones's family consist of?

A. Himself and his wife, two sons and a daughter, exclusive of Mrs. Hayes.

Q. Did you visit there?

A. I did, prior to the absence of Mr. Hayes, but not since.

Q. As to the elopement you can know nothing but what you have heard?

A. No.

Q. Do

Q. Do you know Mr. Carter?

A. I never saw him in my life.

Mr. Sergeant Runninton to Mrs. Abbott. Do you recollect the time when Mr. Hayes returned in April, 1797, to your house?

A. It was three days after Mrs. Hayes's elopement; Mr. Jones, the father, was at my house; he requested me to meet Mr. Hayes, and communicate to him the misfortune; which I did. Mrs. Hayes came to my house (I made a memorandum of it) the 19th of August, 1797, at ten at night; she came in a hackney-coach, No. 484: she desired me to pay the fare from Swallow-street, Oxford-road; she staid in my house till the next morning about six o'clock, when I went home with her to her father's house at Deptford, and there left her.

THOMAS JONES *sworn.*

I live at Deptford; I know the Plaintiff, Mr. Hayes, but very little; I remember his return from his captivity, but I did not take notice of it so as to remember the day of the month.

Q. Do you remember the year?

A. No, I really do not.

Q. Then it might have been twenty years ago?

A. I do not recollect at all.

Q. Is it within these three or four years?

A. Oh,

A. Oh, yes, sir, I believe it is.

Q. Is it within these last two years ?

A. I do not know.

Q. Was it within the last twelve months ?

A. I cannot say.

Q. Did Mrs. Hayes leave her father's house ?

A. Yes.

Q. How many days after that was it that Mr. Hayes returned ?

A. I believe it was a few days after that.

Q. I fancy you saw Mr. Hayes when he returned ?

A. I did, sir ; I did not hear him speak ; he was leaning his head on his hand ; he had a handkerchief in his hand.

Q. Did you go with him any where ?

A. I went with Mr. Hayes twice to make inquiries for his wife.

Q. Did he then seem to be much agitated ?

A. I cannot say that I saw it.

Q. Did he appear to be distressed ?

A. I did not see it at all ; we went to Woolwich after a person that was advertised that had been drowned, but it did not prove to be Mrs. Hayes.

Q. Did Mr. Hayes make general inquiries after his wife ?

A. He made inquiry that day, and he went the next morning to see if it was Mrs. Hayes: it proved

proved to be a person that was out of her mind; but it was not her. We afterwards went to Bexley.

Q. Was he much affected?

A. I did not perceive that he was very much affected, he was cheerful; and, after we had had our dinner, we all had our fortunes told.

Q. Do not you know that Mr. Hayes suspected his wife had been drowned?

A. No, sir, I do not.

Mr. Manley. Where did you meet the gipsies?

A. We spent a very joyous day; he seemed to share equally with myself.

Q. You fared well, I suppose?

A. I had a very good dinner, sir.

Q. Did you ask the gipsies where the wife was?

A. I do not know, sir. The old woman told him, and the young girl told me, our fortunes.

Q. Was it a pretty gipsy?

A. I did not see any particular beauty in her.

Q. What did you give her?

A. Two shillings.

Mr. Pitcairn. What are you?

A. I am no business; I am acquainted with Mr. Jones of Deptford.

Q. Are you not pretty well acquainted with Mr. Carter?

A. I

A. I did know him; I have seen him very often; I do not know him now, that is, I have not seen him a long while.

Q. What age is Mr. Carter now?

A. I do not know; he may be twenty-seven now.

Mrs. HALES sworn.

I saw my brother after his captivity, and when his wife had eloped.

Q. How did he appear?

A. He was very much distressed; I saw him in the middle of the week as he returned on the Monday.

Q. Did he exhibit the marks of true affliction?

A. Excessively distressed.

Q. You had the opportunity of seeing how they lived?

A. They appeared to me to live in great harmony and affection. I have a large family, and I had not much opportunity of visiting them; but he appeared in great misery and affliction, so much so, that he could not speak. He sat at a round table, and held a handkerchief to his face, and cried extremely. I saw him in the middle of the week after he arrived at Mrs. Abbott's on the Monday: he appeared then in great distress.

Q. Did he take pains to inquire where this lady was gone?

A. A.

A. A great deal of pains.

Q. Did he make inquiries for her as for a person who was supposed to have eloped in a deranged state of mind?

A. I do not know that.

Mr. Sergeant Cockell. Where do you live?

A. In Fenchurch-street.

Q. He went, I believe, afterwards to Deptford?

A. He went to Deptford before I saw him.

Q. What I mean is this: after he had returned, he went to the house where he lived, the short time he did live, with his wife?

A. He returned, to the best of my knowledge, to her father's house.

Q. And he continued to stay with her father and her father's family till he went away, till his profession called him?

A. Yes.

Q. You are a relation?

A. I am one of his sisters; he has three sisters, two were examined before me.

ANN COTTERELL sworn.

Q. Where do you now live?

A. At Hoxton, in Contentment-place.

Q. Is it a very retired situation?

A. Yes.

Q. How long have you lived there?

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A. I

A. I believe near ten years.

Q. Then, of course, you lived there in April, 1797?

A. Yes.

Q. Do you let any part of your house in lodgings?

A. Yes, to genteel people.

Q. At that time had you a lady lodging with you of the name of Whitelock?

A. Yes.

Q. How long before April, 1797?

A. She took the apartment for a year, and I cannot say justly what time was to come.

Q. Now, in April, 1797, did any person apply to you for a lodging?

A. Yes, Mrs. Saxton; I knew her; she came in April; she took it for a married lady that was coming out of the country. She brought the lady to my house the 13th of April, 1797, in the evening.

Q. Did any gentleman appear along with her?

A. Not at that time, but the next morning; I cannot justly say who that gentleman was, but I believe his name is Carter.

Q. Was that gentleman constant in his visits there to the lady?

A. Every evening.

Q. Did he visit her as his wife?

A. Yes.

Q. Slept

Q. Slept together, I presume?

A. Sometimes.

Q. Had this lady and gentleman any other name that they went by?

A. Yes, Cecil.

Q. In what state was the lady when she came there? Was she pregnant or not?

A. She was; she was delivered the 26th of July following.

Q. Do you happen to know what was done with the child?

A. It was taken away to nurse within two or three days after to a Mrs. Treadaway. She went away from my house the 19th of August, in the evening; I think it might be between seven and eight, it was in the dusk of the evening. She went away with Mrs. Saxton: she walked, I did not go with her. One Mr. Wildman, who married a niece of mine, followed her a little way, not far.

Mrs. WHITELOCK sworn.

I lived in Mrs. Cotterell's house at Hoxton; situation and circumstances obliged me to be there thirteen months; I was there on the 13th of April, when a lady came in the evening of that day.

Q. Did she come alone, or did any body come with her?

A. I did not see her when she came. In the beginning of the week, there was a person

came, an elderly lady. I did not know her then: that was Mrs. Saxton. The lady's name was Cecil; I mean the lady that was brought to bed there. The evening of the next day, I saw the gentleman who passed by the name of Cecil.

Q. Had you previously known that person, so as to know who he was?

A. Yes, from the time of his being a child. I recollected him perfectly well to be Joseph Carter, laceman, in Lombard-street. My husband lived in the city: he had been a tradesman for many years there.

Q. Then, in the course of your residence in the city, you knew he was the son of Mr. Carter?

A. I believe so, sir; he has always passed as his son. I did not, at first, tell him I knew him to be Mr. Carter: I did before he went away. I told the lady that I knew the party perfectly well, and I gave her my reason for not announcing his name.

Q. In what manner did the intercourse continue between them?

A. They both assumed the name of Cecil, and passed as man and wife.

Q. Did they ever sleep in the same bed?

A. I suppose they did, sir: for, they had but one, and he staid all night.

Q. Some-

Q. Sometimes, I believe, he used to go away late?

A. He never went before the watch went twelve, and sometimes staid all night.

Q. How long had she been there before she was delivered of a child?

A. She was there from the 13th of April to the 26th of July before she was delivered. I made a minute of it.

Q. How soon afterwards was the child sent away?

A. I think it was the third or fourth day. The child was sent to a woman of the name of Treadaway: I went frequently to see it.

Q. Were you sent by the parents?

A. No, I was not; it was very much against their inclination.

Q. What name was the child christened by?

A. He never was christened, as I understand.

Q. What did you call him?

A. Joseph.

Q. That is Mr. Carter's name?

A. Yes.

Q. Did you call him by that name to Mrs. Hayes and Mr. Carter?

A. No, we never had any opportunity; but, when the child came, we asked how little Joseph did.

Q. What

Q. What was the story that Mr. Carter told as to his coming there, and the reason of his keeping this young lady in that privacy?

A. He never gave any reason; for, he had very little communication with any person in the house.

Q. How often did Mr. Carter come?

A. Every evening but Sunday. She said his name was Cecil, when she first came there; of course, she never contradicted it. He used to come, also, as Mr. Cecil. When I asked her the reason, she said they were married privately; and, some money-matters being depending, that was the cause of their keeping the marriage so secret; and that she hoped, in the course of a twelvemonth, that the whole would be brought to light, and the parties made agreeable.

Q. Did they live together as man and wife?

A. Perfectly so; as I understand man and wife ought to live.

Q. Was there any thing that you were led to suspect, about the time of her departure?

A. When this lady came to Mrs. Cotterell's house, I suspected she was the child of some reputable tradesman, and decoyed by Mr. Carter, and that he would afterwards desert her; and I directed a person of the name of Wildman to watch her. I understood her maiden-name was Jones. We went to Deptford the morning after

ter she went away, and we went past a house where the name of Jones was upon the door, and she was sitting at the parlour-window, seemingly working. I was perfectly sure she was the same person. I was afraid of looking much at her, lest she should see me, and that might alarm her. I afterwards learned her real name of her own sister. I went again, with one Mr. Carter, of Deptford, an attorney, for the purpose of ascertaining whether that was Mrs. Hayes or not.

Mr. CARTER sworn.

I am an attorney, at Deptford. I went, with Mrs. Whitelock, to the next door to Mrs. Hayes's, at Deptford. I saw her there, and pointed her out to Mrs. Whitelock. I went at the solicitation of the attorney concerned for the Plaintiff.

Mr. WILDMAN sworn.

I am nephew to Mrs. Cotterell. I remember a lady of the name of Cecil lodging at her house. She left it in August, 1797: I cannot say the day. I followed them on foot from the house, till I came to the Swan. There, a tall gentleman, in a light great coat, met Mrs. Cotterell. I do not know him. He and Mrs. Cecil walked, arm in arm, about a dozen yards beyond the King of Prussia's Head, and there stood a coach,
and

and the lady and gentleman got in. I got up behind, and went, across Smithfield, to Snow-hill. I went no farther. Mrs. Saxton was in the coach. It might be between seven and eight in the evening; I cannot say.

Mr. Law. My Lord, I do not think it necessary to call Mrs. Treadaway, or any of the other witnesses: that is our case.

Mr. Sergeant COCKELL on the part of the Defendant.

May it please your Lordship, — Gentlemen of the Jury; it is now my duty to address you on the part of the Defendant, Mr. Carter, who has been called into judgement, by the Plaintiff of to-day, to answer in damages for an injury which he has committed; and, if you should be of opinion, as perhaps you may, under the direction of the learned Judge, that the act of adultery was fully proved, the only remaining consideration, that you will have to dispose of, will be, what damages you will have to give.

Gentlemen, far be it from me, still far more from the intention of my client, that I should treat the present Plaintiff with any disrespect: I do not, neither do I attribute to him, on the present occasion, any improper conduct with respect to his wife; more especially with respect to those absences which you have heard were necessary, and
which

which he could not control. My learned friend has had recourse to a specious kind of case, which he thought would inflame your passions, and draw down (in his own language) vengeance on the head of my client.

Gentlemen, you are not sitting to try causes on the wheel of passion; you are not to wander into the subjects which *might* belong to a transaction, but you are to look at the genuine evidence of the case, and give a verdict, not in passion, but in sober deliberation, from all the circumstances of the case, collecting the truth as well as you can; sifting, as far as it is in your power, by your discretion, and by your sagacity, what is the situation, and what are the real circumstances between these parties.

Gentlemen, my learned friend has proved something; but, if the case was of the sort which he represented to you, he might have proved a great deal more; he observed, on one or two topics that I think were not candid or fair to the Defendant; for, we owe justice even to our adversaries: when he stated to you that my client, under pretence of paying his addresses to another sister, a daughter of Mr. Jones, unmarried, that he had thereby obtained a confidence in that family, and had betrayed that confidence in the ruin and destruction of this female.

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Gentlemen,

Gentlemen, that was taking strong ground, and I began to be alarmed, lest my instructions had failed. Why, Gentlemen, has he called a single witness to prove this his assertion; as it is his, out of his profession or in it, I would believe as soon as any man's: but has he not trusted to his instructions, that this man, with insidious and base purposes, found address enough to get into the confidence of Mr. Jones, and became the spoiler and the base abominable seducer of the Plaintiff's wife. Now, does this appear to be the case? Has my friend called that young lady to whom he said the Defendant was a suitor? Has he called any one of Mr. Jones's family, who lived only at the next door, and, therefore, could have told you best how this couple lived together?

Gentlemen, we must not let our passions hurry us on too quick; we must pause, we must deliberate like men, and act like men; we are not angels in this life; there is a great mixture, no doubt, of bad and good; but actions, which are not to be tolerated in courts of justice, may yet have many palliations: happy is the man who errs the least, who is the most discreet, the wisest, and the best; but a person may fall into the trap that is laid for him. A beautiful woman may seduce, an artful woman may overcome, and in a moment, when a party is unguarded, all may be done which occasions the sad scene; for, what passes after does not

not enhance the original crime: but, in this case, Gentlemen, give me leave to ask, where are those arts, where are those stratagems, which my learned friend mentioned? Where is the insidious conduct of this young man? Has he shewn it; has he attempted to shew it? No such thing; for, on the close of his evidence, he brings a witness to prove, that apartments were taken for this lady under a feigned name; why, Gentlemen, does that magnify the offence of the Defendant? Not at all; what could he do? If a crime of a moment has taken place, and into which a wiser and a better, a more discreet and experienced, man might have been betrayed, if pregnancy is the consequence of that crime, what is to be done? Was he to leave the poor woman to the rage of her friends' resentment; to the rebukes of her father and mother, and the rest of her family? He would have been devoid of all tenderness; there would have been no manhood about him. Who but he to snatch her from the depths of misery? who but that instrument who contributed to her ruin? and, with respect to those of her own family, who had seen her since this matter, who so fit to have informed you of the manner in which she conducted herself? But, instead of calling those persons who knew most about her, he has contented himself with calling the three sisters of the Plaintiff, who lived at a distance, and saw them but seldom. Alas,

what could they know of their conjugal happiness ? Parties do not quarrel upon every interview ; and they were but visitors at best ; they saw them occasionally, and then they believed them happy.

Gentlemen, it might be so, and yet they might be very miserable ; therefore, I say, my learned friend has not produced before you ; and a Jury may say, we have had a partial representation ; we have had but half a story ; whereas, if we had heard the whole, and which the Plaintiff was bound to have told, the case would have been very different. Can you assign any reason why he has not chose to call the branches of Mr. Jones's family, but that reason which I just now assigned ; namely, that they would have made out a case much more favourable to the Defendant than it now is ? However, he has called one witness, because the man is called Jones, whom, he would have you believe, was a relation of the Plaintiff's wife ; and it is a very striking circumstance, that this man saw nothing of that misery which my learned friend has so emphatically and beautifully described : so far from being alarmed, he had a good dinner, and spent a jolly day, and afterwards indulged himself in the foolish and ridiculous levity of fortune-telling ; so that this young gentleman, so far from being sunk in misery, was lively, could indulge in the conviviality of the day, and was, for ought he knew, as cheerful as himself ; and this is the only witness

witness that stands perfectly disinterested: but, say they, he is an acquaintance of Mr. Carter. So he is; but he is an acquaintance of the Plaintiff's also; for, he has recourse to him to attend him on this expedition when he went to look for his wife.

Gentlemen, there is another thing which my learned friend has thrown out, which is not proved: he told you that the Plaintiff had expended considerable sums in providing accommodations for his wife before he left her: whereas, the fact turns out to be, that he has not expended a single shilling. And it is in evidence before you, that the house was the house of Mr. Jones, the father, and that the furniture was purchased by him, and not by the Plaintiff.

Gentlemen, as to the Defendant directing a person to procure lodgings for her, I did mention that before. Who was the person to provide an asylum for her to bear the fruits of this stolen intercourse? She could not stay at her father's house; she was not to lie-in in the street. The Defendant was the only person to protect and provide for her; for, he having committed the original error, all the rest, instead of being aggravations, were the necessary consequences of it; and, if they had never had but one single meeting, and pregnancy had been the consequence, nothing would have followed from an honourable man, and a man of humanity, but to endeavour all in his power to alleviate the sorrows
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of a heart broken under a sense of shame at those improprieties which he had occasioned.

And now, Gentlemen, permit me to call back your attention a little to the situation of these parties. My friend called for vengeance on the head of this seducer: vengeance does not belong to you. You are to do justice; and the justice of the case is this, that you are to give, with retrospect to the situation of both parties, such fair and reasonable damages as shall be a fair compensation for the injury: that is the ground I do admit.

Gentlemen, if my learned friend had laid before you a case of a wildly attack, and that this man had been poisoning the mind of this lady against her husband by falsehood, or by misrepresentation of his conduct, or taken an artful course to insinuate himself into her good opinion, and in an ill-timed moment had taken an advantage, it would have been a case which would have called for great damages. In case the lady, who was assailed, was originally virtuous, and had been seduced from those habits by imposing artifices and misrepresentations, by persuading her that her husband was too negligent of her, and by the numberless allurements which have a tendency to intoxicate a giddy and youthful female, who had, perhaps, been a length of time repelling such assaults; if she is at last overcome, yet there the case alters materially.

Gentlemen,

Gentlemen, there is another thing necessary for your consideration. Does it appear that this gentleman has lost a wife that was likely to make him happy? If she was accessible at an easy rate by my client or any body else, has he lost that amiable intercourse, that social happiness, which expectation might form with a mind of a different texture? Did they live long together? Why, Gentlemen, you have often heard that two months was the utmost period; and two months will not enable any one to discover whether such an union, taking the probable chances of human affairs, was likely to continue happy or otherwise. This is not like such cases which we are too often called to witness in courts of justice, of a long series of domestic happiness broken in upon by some ensnaring deceiver, who takes advantage of the husband's casual absence to blast all his hopes: here, two short months, and that period only at broken intervals, were the whole of his duration with the lady. If he had continued even six months longer, he might have experienced a prodigious alteration in his domestic tranquillity.

Another thing: this gentleman has not broken up any establishment; for, where a man has expended part of his fortune, to ensure, as he expects, a lasting residence, and his union is shortly destroyed, there, again, the case differs widely: for, here it appears in evidence that every thing

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was procured by the lady's father; and, if the Plaintiff did not receive a farthing with his wife, he did not expend a farthing: it was an improvident match.

Now, Gentlemen, can it be, for a moment, believed, on viewing the whole complexion of this case, can the Defendant be called, the seducer of this woman? And, especially, when you recollect a part of this case, which my learned friend opened to you, but which he did not think advisable to attempt to support by evidence. But, improbable as the story she told of her being confined must be, yet she imposed it on her father, and, by his account, would also have imposed it on her husband. Gentlemen, if she had art enough to contrive this story, and address enough to impose it, could she be said to be a person wholly unhackneyed in the paths of vice? Might not the observation in Othello be applied concerning her:

“ Moor, she has deceived me, and may thee?”

And, Gentlemen, might not this art and address entrap the Defendant also? You will be much disposed to believe it was so, when you recollect that you have not one of the lady's family coming to speak to her conduct and disposition of mind, which they certainly would have done if they had known her to be the person my friend

friend represents. If their poor child had been practised upon by some person much more to blame than the Defendant, would they not have hastened into that box, to pour a torrent of anger and resentment on the man who had despoiled their child? But this is a different story; for, had those letters been produced which I am not permitted to produce, you would have had a tale unfolded of a very different nature. But, Gentlemen, I must not read them; for, the policy of the English law has said, that, what a wife says concerning a husband shall not be evidence.

Gentlemen, once more you will observe, that the Plaintiff has not thought proper to shew you the origin and progress of this connection. All he has vouchsafed is, the termination of it.

Gentlemen, you have now the whole of the case before you, and I have only to conclude with three or four general observations. This is not a case of deliberate seduction; this is not a case where, by the rank, or splendor, or opulence, of the Defendant, the pride or the vanity of a woman has been intoxicated, and has fled from her marriage-vow; it is not a case where the parties are persons of great fortune. The Plaintiff is an officer in his majesty's navy; and a very good officer, and a very honourable man, I doubt not; far be it from me to insinuate

ate to the contrary; but he was, originally, a man of no fortune. He made no settlement on this lady, and their family was never a single farthing the richer for him. And then, Gentlemen, with respect to his feelings, grief has not beset him so violently as my learned friend has represented.

Gentlemen, the whole jut of the action ends in this: it is a case of abstract adultery; the adultery has been proved to have been committed, but, under what circumstances, my learned friend has not thought proper to tell you. However, it is plain this gentleman's enjoyment of his wife's society was but of very short duration, interrupted by frequent absences (necessary absences, I doubt not); and to whom she chose to commit herself, after his departure, we know not. You therefore have a right to say, in a case like this, We have not had all the information we could; we might have had a great deal more, which the Plaintiff could have given us; and, therefore, we will not go any great lengths; we will consider this young man as having done an indiscreet act; and, I assure you, my client is extremely sorry that he unfortunately has been misled by the artifices of this lady, and a verdict must pass against him. There has been no evidence of his situation in life; he is a gentleman who has lately begun a very small business

finest which his father had gained his living by.

Gentlemen, the damages are in your hands; you will deal them out with deliberation, with soberness, and moderation: you will remember that it is only a compensation for the loss of a wife, who, in all probability, would not have yielded the Plaintiff any considerable proportion of felicity; and you will not be hurried away, as I am afraid some have been, by confounding the case you are to act upon: you are not the avengers of breaches of moral duties. The only path, which the law has pointed out to you, is to apportion damages with an equitable disposition: this is a case stripped of all aggravations on the part of the Defendant. It is not a case in which the Plaintiff has suffered either in fortune or in mind, and it is a case which he has thought fit to bring before you in a mutilated shape, in order to catch a verdict, different to what he knew would have been the case if he had brought the whole before you, as that would have exhibited an extenuation, and many circumstances of palliation, on the part of the Defendant.

Court. — Gentlemen of the Jury, This is an action brought by the Plaintiff in order to obtain by your verdict a pecuniary compensation for de-

bauching his wife, whereby his peace of mind is destroyed. The adultery now stands confessed, and the facts are very few. It appears in evidence that the marriage took place in 1795; that the Plaintiff and his wife cohabited together till he was called on public service; that they lived together till August; when he went abroad, and he was taken prisoner, and confined in a Spanish gaol for a twelvemonth; and, on his return, found his wife was eloped from her father's house; that she continued in an adulterous intercourse, at the house of Mrs. Cotterell, with the Defendant; and was brought to bed of a child towards the latter end of July, and returned at the beginning of August to her father's house.

Gentlemen, this is the general outline of the case that has been proved; now, it is necessary for you to take into your consideration the several circumstances which you may think ought either to aggravate or palliate the case. Now, in justice to the Defendant, I think it my duty to tell you, that this transaction is not accompanied with many aggravating circumstances which usually attend such cases: first, it does not appear at all that the Defendant lived on a footing of intimacy with the Plaintiff and his wife, or their relations; it does not appear that they were even common acquaintances, therefore, there was no treachery in this case; nor does it appear how, or by what accident, their acquaintance commenced; how this lady was first seduced,

seduced, nor how long it was before she surrendered; whether he was attracted by any levity in her behaviour, or whether he formed a deliberate plan for her seduction; and, undoubtedly, that might have been proved by his wife's relations. Next, under what circumstances he and his wife lived together before he went abroad. It appears by the evidence of the Plaintiff's sisters, that they lived in great happiness, in great harmony, and, indeed, they could scarce be otherwise; they had not been married long; they did not see each other for any long time, and, therefore, it was not likely that those relations should see them unhappy together. We find that a child was the natural consequence and effect of this illicit intercourse; and she was delivered under a feigned name, after the absence of her husband for more than a year; therefore, it is impossible that child should be considered as legitimate, or ever fixed on the Plaintiff. Then, the next thing is, how the Plaintiff was affected in this case: Mrs. Crefer and Mrs. Brown tell you, that, when the Plaintiff came home and found his wife was eloped, he manifested the deepest affliction on that account; and the only witness you have, that contradicts this, is Jones, who is called on the part of the Plaintiff. He tells you he appeared in an attitude of grief, that he went with him to several places in search of his wife, that they spent a very happy day at Bexley, and that he ap-
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peared very joyous, and even went to have his fortune told; and thence they would infer a contradiction to all the account of his being distressed, which is given by the other witnesses: but that consequence does not follow at all. It is found by experience, frequently, that men, even in the greatest distress, may yet indulge a pleasurable hour: and I remember an author, who well knew the human heart, and knew how to trace its secret springs, (I mean the celebrated Voltaire,) who says, giving several instances of it, that, when people have been immersed in the deepest affliction, if any thing ridiculous happens to come across them, they are more apt, that very moment, to fall into a folly of mirth, than persons in a more regular frame of mind.

Gentlemen, though this is a bad case of seduction, (and every case of seduction is a bad case,) it certainly is not one of the most flagrant that frequently happens. You will consider all the circumstances of the case; you will advert only to the evidence as to the consideration of what damages the Plaintiff is to recover for the destruction of his domestic peace and happiness; you are to consider the circumstances of the Plaintiff and the Defendant, but principally of the Plaintiff, because his peace has been destroyed; and, if parties are not amenable for transactions of such a nature, it would be in the power of
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any worthless fellow, that is not worth a shilling, to make desperate inroads on the order and happiness of society.

As to the Defendant's circumstances, they do not appear by any evidence: it only appears that he is a laceman, carrying on trade in Lombard-street.

Consider your verdict, Gentlemen, and give such damages as you shall think proper on the present occasion.

The Jury immediately gave a verdict for the Plaintiff. Damages, £400.

THE END.

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